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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/047,060	01/14/2002	Anand Baichwal	540.1004CON2	3558

23280 7590 08/14/2003  
DAVIDSON, DAVIDSON & KAPPEL, LLC  
485 SEVENTH AVENUE, 14TH FLOOR  
NEW YORK, NY 10018

EXAMINER
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AZPURU, CARLOS A

ART UNIT	PAPER NUMBER
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1615

DATE MAILED: 08/14/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

**Ex Parte Reexamination Advisory Action**

Control Number

10/047,060

Patent Under R examination

BAICHWAL ET AL.

Examiner

Carlos A. Azpuru

Art Unit

1615

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

THE PROPOSED RESPONSE FILED 31 July 2003 FAILS TO OVERCOME ALL OF THE REJECTIONS IN THE FINAL REJECTION MAILED 02/26/03. Therefore, unless a timely appeal is filed, or other appropriate action by the patent owner is taken to overcome all of the outstanding rejection(s), this *ex parte* reexamination proceeding WILL BE TERMINATED and a Notice of Intent to Issue *Ex Parte* Reexamination Certificate will be mailed in due course. Any finally rejected claims, or claims objected to, will be CANCELLED.

THE PERIOD FOR RESPONSE IS EXTENDED TO RUN 5 MONTHS FROM THE MAILING DATE OF THE FINAL REJECTION.

(Extensions of time are governed by 37 CFR 1.550(c))

1. ☐ Appellant's Brief is due two months from the date of the Notice of Appeal filed on \_\_\_\_\_ (or within the extended period for response set forth above, whichever is later). See 37 CFR 1.191(d) and 37 CFR 1.192(a).
2. ☐ The proposed amendment(s) will not be entered because:
  - (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
  - (b) ☐ they raise the issue of new matter (see NOTE below);
  - (c) ☐ they are not deemed to place the proceeding in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
  - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.NOTE: \_\_\_\_\_
3. ☐ Patent owner's proposed response filed \_\_\_\_\_ has overcome the following rejection(s): \_\_\_\_\_
4. ☐ The proposed new or amended claim(s) \_\_\_\_\_ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit/declaration, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT overcome the rejection(s) because: it does not overcome the rejections under 35 USC 112, second paragraph, as well as 35 USC 102(b).
6. ☐ The affidavit/declaration or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☐ For purposes of Appeal, the proposed amendment(s) a) ☐ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:  
Claim(s) patentable and/or confirmed: \_\_\_\_\_  
Claim(s) objected to: \_\_\_\_\_  
Claim(s) rejected: 26-43  
Claim(s) not subject to reexamination: \_\_\_\_\_
8. ☐ The proposed drawing correction filed on \_\_\_\_\_ a) ☐ has b) ☐ has not been approved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s), PTO-1449, Paper No(s) \_\_\_\_\_.
10. ☒ Other: The rejection under 35 USC 112, first paragraph for lack of enablement is hereby withdrawn.

CARLOS AZPURU  
PRIMARY EXAMINER  
GROUP 1500

cc: Requester (if third party requester)